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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,228	12/28/2001	Richard E. Smalley	11321-P012USD10	9672
7590	07/02/2004		EXAMINER	
HUGH R. KRESS WINSTEAD SECHREST & MINICK, P.C. 2400 BANK ONE CENTER 910 TRAVIS STREET HOUSTON, TX 77002			HENDRICKSON, STUART L	
			ART UNIT	PAPER NUMBER
			1754	
DATE MAILED: 07/02/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	101033228	Applicant(s)	Smalley
Examiner	Andickson	Group Art Unit	1154

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

Responsive to communication(s) filed on _____.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

Claim(s) 141-152, 163-194 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) _____ is/are rejected.

Claim(s) _____ is/are objected to.

Claim(s) 141-152, 163-194 are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on _____ is approved disapproved.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

<input type="checkbox"/> Information Disclosure Statement(s), PTO-1449, Paper No(s). _____	<input type="checkbox"/> Interview Summary, PTO-413
<input type="checkbox"/> Notice of Reference(s) Cited, PTO-892	<input type="checkbox"/> Notice of Informal Patent Application, PTO-152
<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review, PTO-948	<input type="checkbox"/> Other _____

Office Action Summary

Art Unit: 1754

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 141-152, 163-174, 176-183, 186-192, drawn to treated SWNT, classified in class 423, subclass 447.2.
- II. Claims 175, 193, 194, drawn to a device, classified in class 422, subclass 1+.
- III. Claims 184, 185, drawn to an electrical composition, classified in class 313, subclass 1+.

The inventions in the groups above are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as a filler. See MPEP § 806.05(d). The product need not be made by the process recited. It is noted that claims 173, 174, 176-183, 186-192 recite properties ('catalyst' etc.). These are deemed not to limit the claims, however if they are amended to recite significant structure or if the patentability is alleged to be imparted by these recitations, then these claims will be further restricted, as will any similar claims added later. There is a substantial burden of search.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (571) 272-1351.



Stuart Hendrickson
examiner Art Unit 1754